

APPEAL NO. 032771  
FILED NOVEMBER 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 15, 2003. The hearing officer determined that the decedent suffered compensable injuries on \_\_\_\_\_, that resulted in his death.

The carrier accepted liability and the appellant (employer) contested compensability pursuant to Section 409.011(b)(4). The employer appealed, arguing that the hearing officer's decision was unsupported by the medical evidence and that the decedent had in fact died as a result of a heart attack prior to the bus leaving the road in the fatal accident. The respondent (claimant beneficiary) responded, urging affirmance.

DECISION

Affirmed.

The decedent was operating a bus for the employer on the night of \_\_\_\_\_, when it veered off the road. The evidence indicated that the decedent took no corrective action although the bus crashed into several bushes and trees before it stopped and caught fire. The decedent was pronounced dead on the scene. After his investigation, a state trooper determined that the decedent had fallen asleep at the wheel. The medical examiner's autopsy report indicated that the cause of death was multiple blunt force injuries of the head. It also noted the presence of severe atherosclerotic coronary artery disease.

In its Contest of Compensability, the employer cites a subsequent report by Dr. B as being new evidence indicating the decedent died of a heart attack. In his report, Dr. B stated that, in his opinion, the precipitating cause for the accident was the decedent's loss of consciousness that "may have been the onset of a myocardial infarction (heart attack)." He went on to say that the decedent "was at risk for a sudden arrhythmia/heart attack at any time." He also opined that, "In reasonable medical probability there is no other explanation for this accident sequence." Dr. B refers only to the autopsy report as a source for information. The employer also cites a July 16, 2003, peer or record review by Dr. K, in which Dr. K concludes "that [the decedent] had died from an arrhythmic death related to his triple-vesselled coronary artery disease prior to veering off the road and more than likely that he did not fall asleep at the wheel."

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Conflicting medical evidence was presented, and the hearing officer resolved those conflicts in favor of the claimant beneficiary. With conflicting evidence in support of contradictory views, we cannot say that the hearing officer erred as a matter of law or that his decision is so against the great weight and preponderance

of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN  
ACE USA/ESES  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200  
IRVING, TEXAS 75063.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge